

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

TROPICAL FRUIT, S.E.;
AVSHALOM LUBIN;
CESAR OTERO ACEVEDO; and
PEDRO TOLEDO GONZALEZ,

Defendants.

Civil Action No. 97-1442-DRD

**PLAINTIFF UNITED STATES' MOTION FOR EXTENSION OF TIME TO
FILE MOTION FOR LEAVE TO FILE REPLY TO DEFENDANTS OPPOSITION TO
UNITED STATES MOTION FOR AN ORDER TO SHOW CAUSE ON CONTEMPT**

On December 16, 2004 (Docket #95), the United States Filed a Motion for an Order to Show Cause regarding Contempt. On May 6, 2005 (Docket #105) Defendants filed an Opposition to the United States Motion for an Order to Show Cause. Pursuant to Civil Local Rule 7(c), the United States must obtain leave of Court within seven days of Defendants' Opposition in order to file a Reply Memorandum. Therefore a Motion for Leave to File a Reply is due May 13, 2005.

The United States is hereby moving for an extension of time of two business days, pursuant to Civil Local Rule 6(a), until May 17, 2005 to file a Motion for Leave to File a Reply. In Defendants' twenty-one page Opposition and nineteen attached exhibits, they raise new issues

regarding their attempt to modify and rewrite the Consent Decree which they negotiated and entered into on October 25, 2001. These issues necessitate a reply by the United States, including an accurate description of the body of case law regarding the heavy burden associated with a party's attempt to modify a consent decree.

Therefore, the United States respectfully requests that the Court grant the United States' Motion for Extension of Time to File Motion for Leave to File Reply and extend the deadline from May 13, 2005 to May 17, 2005.

May 13, 2005

Respectfully Submitted,

KELLY A. JOHNSON
Acting Assistant Attorney General
Environment and Natural Resources Division

s/ Henry S. Friedman
HENRY S. FRIEDMAN, Senior Attorney
USDC-PR #600105
JEROME MACLAUGHLIN, Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Benjamin Franklin Station
P.O. Box 7611
Washington, D.C. 20044
(202) 514-5268

H.S. GARCIA
United States Attorney
District of Puerto Rico

ISABEL MUNOZ
Assistant United States Attorney
USDC No. 128302
District of Puerto Rico
Federal Building, Room 452
Chardon Avenue

Hato Rey, Puerto Rico 00918
(787) 766-5656

OF COUNSEL:

ERIC SCHAAF, Acting Regional Counsel
NAOMI SHAPIRO, Assistant Regional Counsel
LOURDES RODRIGUEZ, Assistant Regional Counsel
U.S. Environmental Protection Agency Region II
290 Broadway, 16th Floor
New York, New York 10007
(212) 637-3221

CERTIFICATE OF SERVICE

I, Henry S. Friedman, hereby certify that on May 13, 2005 copies of the United States of America's Motion for An Extension of Time to File Motion for Leave to Reply was served by means of the CMF/EMF electronic docket system on the following registered users of that system:

Jaime Sifre, Esq.
Sanchez, Betances & Sifre
Bolivia # 33, Suite 500
Hato Rey, Puerto Rico 00918

s/ Henry S. Friedman
HENRY S. FRIEDMAN